

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AMERICAN BROADCASTING
COMPANIES, INC., DISNEY
ENTERPRISES, INC., TWENTIETH
CENTURY FOX FILM CORPORATION,
CBS BROADCASTING INC., CBS STUDIOS
INC., FOX TELEVISION STATIONS, LLC,
FOX BROADCASTING COMPANY, LLC,
NBCUNIVERSAL MEDIA, LLC,
UNIVERSAL TELEVISION LLC, and OPEN
4 BUSINESS PRODUCTIONS, LLC,

Plaintiffs and Counterclaim-Defendants,

v.

DAVID R. GOODFRIEND and SPORTS
FANS COALITION NY, INC.,

Defendants and Counterclaim-Plaintiffs.

Case No.: 19-cv-7136-LLS

**DECLARATION OF LAURA B. NAJEMY
IN SUPPORT OF DEFENDANT DAVID R. GOODFRIEND'S
MOTION FOR SUMMARY JUDGMENT**

I, Laura B. Najemy, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an associate with the law firm of Orrick, Herrington & Sutcliffe LLP and counsel of record for Defendants David R. Goodfriend and Sports Fans Coalition NY, Inc. ("Defendants") in the above-captioned matter. I am a member of good standing of the Bar of the Commonwealth of Massachusetts and am admitted *pro hac vice* to practice before this Court. I make this declaration based on my personal knowledge and, if called upon, could testify competently thereto.

2. Attached hereto as **Exhibit 1** is a true and correct copy of SFCNY's Form CHAR410, "Registration Statement for Charitable Organizations."

3. Attached hereto as **Exhibit 2** is a true and correct copy of the April 5, 2018 Application for Recognition of Exemption Under 501(c)(3) of the Internal Revenue Code and Attachments.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the December 3, 2018 tax determination letter issued by the Internal Revenue Service to Sports Fans Coalition New York ("SFCNY").

5. Attached hereto as **Exhibit 4** are true and correct copies of SFCNY's 2019 CHAR500 and federal Form 990.

6. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts of the Internal Revenue Service's 2020 Instructions for Form 990.

7. Attached hereto as **Exhibit 6** is a true and correct copy of SFCNY's 2018 federal form 990-EZ

8. Attached hereto as **Exhibit 7** is a true and correct copy of the February 18, 2021 Expert Report of Thomas J. Raffa, CPA.

9. Attached hereto as **Exhibit 8** is a true and correct copy of the March 18, 2021 Rebuttal Expert Report of Thomas J. Raffa, CPA.

10. Attached hereto as **Exhibit 9** is a true and correct copy of the February 18, 2021 Expert Report of Gregory J. Nachtwey.

11. Attached hereto as **Exhibit 10** is a true and correct copy of GRF CPAs & Advisors' Independent Auditor's Report for the Year Ending December 31, 2019.

12. Attached hereto as **Exhibit 11** is a true and correct copy of GRF CPAs & Advisors' Independent Auditor's Report for the Year Ending December 31, 2020.

13. Attached hereto as **Exhibit 12** is a true and correct copy of excerpts from the transcript of the December 18, 2020 Deposition of David R. Goodfriend.

14. Attached hereto as **Exhibit 13** is a true and correct copy of excerpts from the transcript of the April 12, 2021 Deposition of Gregory J. Nachtwey.

15. Attached hereto as **Exhibit 14** is a true and correct copy of SFCNY's March 4, 2019 Grant Request to the Open Society (Soros) Foundation.

16. Attached hereto as **Exhibit 15** is a true and correct copy of B+C Staff, "The Five Spot: David Goodfriend," Next TV (last visited Apr. 29, 2021), <https://www.nexttv.com/news/the-five-spot-david-goodfriend>.

17. Attached hereto as **Exhibit 16** is a true and correct copy of "Locast surpasses 2.3 million users seeking to stream their local TV channels for free.," Global News Wire (Jan. 19, 2021), <https://www.globenewswire.com/en/news-release/2021/01/19/2160732/0/en/Locast-surpasses-2-3-million-users-seeking-to-stream-their-local-TV-channels-for-free.html>;

18. Attached hereto as **Exhibit 17** is a true and correct copy of Drew FitzGerald, "Streaming Service Challenges Broadcasters with Free TV Feeds," The Wall Street Journal (Jul. 1, 2019), <https://www.wsj.com/articles/streaming-service-challenges-broadcasters-with-free-tv-feeds-11561986187>.

19. Attached hereto as **Exhibit 18** is a true and correct copy of Locast, "About" (last visited Apr. 29, 2021), <https://www.locast.org/news/about/>.

20. Attached hereto as **Exhibit 19** is a true and correct copy of Locast, “Locast White Paper” (last visited Apr. 29, 2021), <https://www.locast.org/news/press-releases/locast-white-paper/> and “Locast: Non-Profit Retransmission of Broadcast Television” (Jun. 2018).

21. Attached hereto as **Exhibit 20** is a true and correct copy of Sarah Barry James, “Lawyers: Legal forecast uncertain for broadcast streaming service Locast,” (Oct. 4, 2018), https://www.spglobal.com/marketintelligence/en/news-insights/trending/82_enplx5zqr7glmm90hmg2.

22. Attached hereto as **Exhibit 21** is a true and correct copy of Rex Crum, “For cord-cutters, Locast offers 40 broadcast channels. But could legal action be around the corner?,” (Jun. 24, 2019), <https://www.mercurynews.com/2019/06/24/cord-cutters-get-another-choice-with-tv-streamer-locast/>.

23. Attached hereto as **Exhibit 22** is a true and correct copy of an August 24, 2018 email from David Goodfriend to Peter Ward, which is bates stamped SFCNY-000042549.

24. Attached hereto as **Exhibit 23** is a true and correct copy of excerpts from the transcript of the April 13, 2021 Deposition of Jack N. Goodman.

25. Attached hereto as **Exhibit 24** is a true and correct copy of TV Insider, “The Cord Cutter’s Guide to Watching Broadcast TV for Free,” (Mar. 28, 2021) https://www.nbcrightnow.com/lifestyles/entertainment/thecord-cutter-s-guide-to-watching-broadcast-tv-for-free/article_def30577-8bae-59bc-a319-cf93e4266c7d.html.

26. Attached hereto as **Exhibit 25** is a true and correct copy of Nicole Nguyen, “Streaming vs. Cable: How to Save Money Watching Live TV,” (Jan. 31, 2021) <https://www.wsj.com/articles/streaming-vs-cable-how-to-save-money-watching-live-tv-11612101600>.

27. Attached hereto as **Exhibit 26** is a true and correct copy of Cord Cutters News, “How to watch local channels without cable in 2020,” (last accessed May 3, 2021), <https://www.cordcuttersnews.com/how-to-watch-local-channels/>.

28. Attached hereto as **Exhibit 27** is a true and correct copy of a February 19, 2019 pledge acknowledgement letter from David Goodfriend to Robert McAllan, which is bates stamped SFCNY-000022796.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: May 6, 2021
Needham, Massachusetts

/s/ Laura B. Najemy
Laura B. Najemy